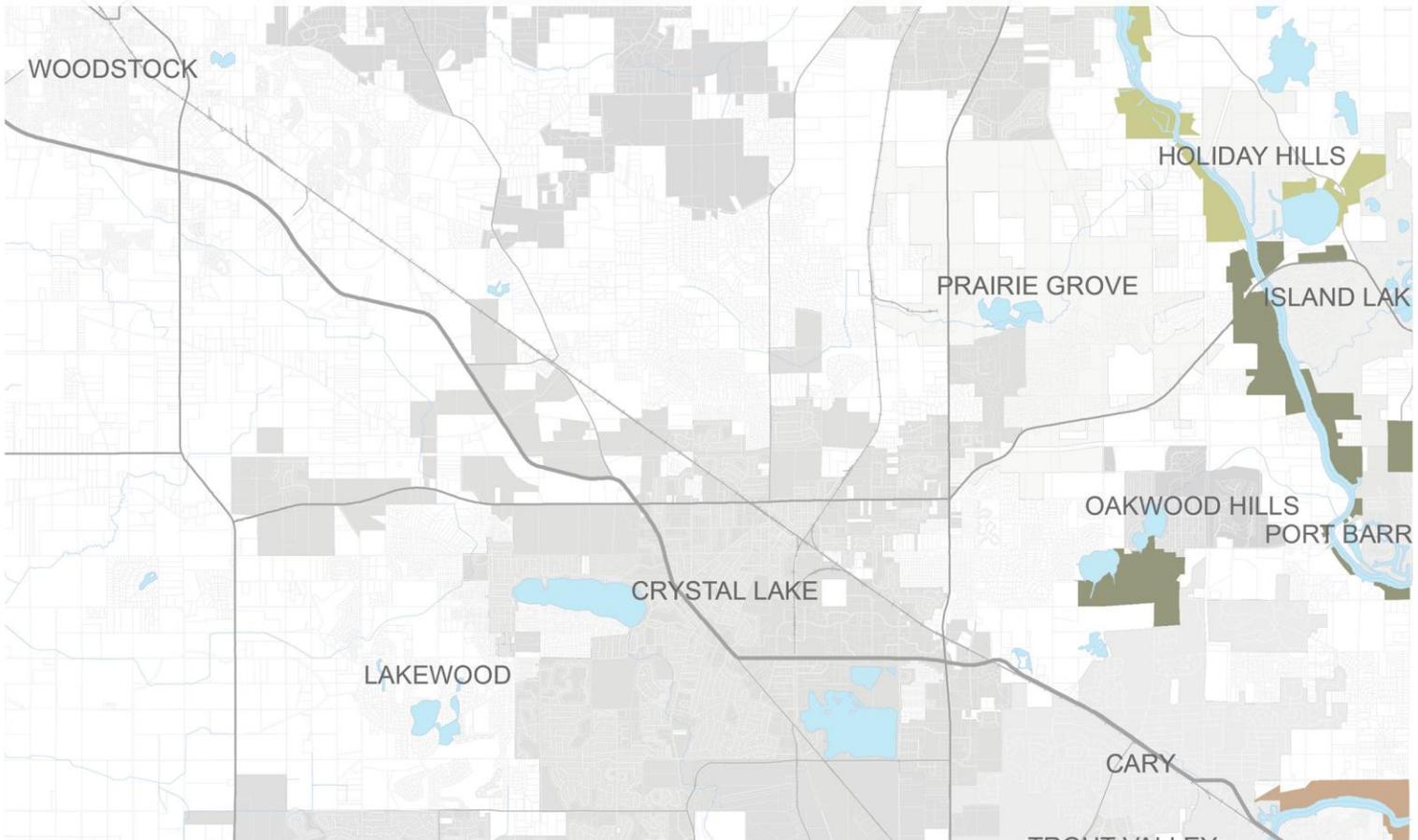


A ZONING APPROACH FOR MCHENRY COUNTY'S UNINCORPORATED WATERFRONT NEIGHBORHOODS

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McHenry County's unincorporated waterfront areas, along the Fox River and abutting several small lakes in the eastern section of the County, contain subdivisions and properties developed primarily in the 1920s as summer homes. Many of the properties in these waterfront areas are substandard with regard to present zoning requirements, and exhibit a dense development pattern not seen in other parts of the county. The lot sizes, platting and configuration of existing lots found in these areas are unique within the county, as they were mostly developed prior to July 1, 1959, when the County's subdivision standards were adopted. In fact, the density and character of the development pattern seen in these unincorporated waterfront neighborhoods may be considered more characteristic of an urban rather than rural environment.

The County's current suburban style zoning regulations do not accommodate the conditions in these neighborhoods, and present a series of challenges to residents. As a result, in addition to making new development difficult within these areas, the current regulations create many non-conforming lots and structures. These non-conformities are problematic for homeowners in terms of performing maintenance and upkeep of their properties, and often force them to obtain a variance for even the smallest of projects.

The development pattern seen in the county's waterfront subdivisions brings with it a number of additional concerns regarding right-of-way widths, road conditions and ownership, recurrent flooding of sites and structures built in wetland or floodplain locations, and potential impacts upon water quality. The zoning recommendations contained in this report represent a first step in working to resolve these issues and assure their continued viability, which is of value for both their unique character and their function as a significant pool of affordable housing.

EXISTING CONDITIONS

In order to assess and address land use and zoning issues within these neighborhoods, it is necessary to clearly define the areas under consideration and then investigate the factors that condition their use and character. County GIS data was employed to select unincorporated,

residentially zoned areas near rivers and bodies of water within the county. These areas were grouped by geographic proximity into five “sub-areas” for ease of mapping and analysis at a closer level of detail. Sub-areas were vetted through County staff, and subsequently edited and refined into their final state.

A series of existing conditions maps were created at the sub-area level, using County GIS data, and include the following:

- Zoning
- Land Use
- Floodplain & Floodway
- Lot Area Conformity
- Lot Frontage Analysis
- Subdivisions
- Fire Protection Districts
- Vacant & Built Lots
- Facilities Planning Areas

Analysis of these existing conditions maps identified a number of issues relevant to McHenry County’s waterfront neighborhoods, such as small lot sizes and frontages, and homes located within floodplain or floodway areas. Full-page versions of these maps can be found in the appendix to this document.

Following the existing conditions inventory and analysis, a series of meetings were held with county staff, local municipalities, and community representatives from a number of these waterfront neighborhoods. These meetings yielded significant insight into existing conditions, and brought forward additional issues and considerations that were not identified through the map-based analysis.

Analysis showed that many lots within these areas do not conform to current zoning standards; a result of small lot sizes and frontages, as well as building location on the lots. This creates a difficult situation for both property owners and the county, and presents a challenge to future development or redevelopment. Further, many residential buildings were located within floodplain or floodway areas, and must be addressed to resolve issues of floodplain development limitations as well as related health and safety issues.

KEY LAND USE AND ZONING ISSUES

Within the neighborhoods surveyed, which are predominantly zoned as R-1 single family residential, many lots are less than one half acre in area (the minimum size established by the base zoning district). As a result, such lots are non-conforming under the current regulations.

Additionally, many lot frontages average between 40' to 60' and further create non-conformance with the zoning ordinance in terms of the required lot widths and setbacks. These narrow frontages create a dense development pattern and unique character within these neighborhoods, but they also pose significant challenges to the maintenance of existing homes and the development of new properties due to the tight configuration and resultant potential constraints on potable water wells, onsite wastewater treatment systems, road access, etc.

As a result of the current zoning, homeowners located on small non-conforming lots, seeking to perform maintenance on their properties, such as replacement of a roof or deck, or to perform minor renovations to their existing structures are being required to seek variances from the County to complete the work. This results in an undesirable condition for both the County and homeowners, wherein both parties must spend valuable time and resources to get the simplest of projects approved. In our meetings with community members, the popular sentiment was that these homes were present before the zoning was adopted, and homeowners should not be made to conform to regulations that weren't designed with their parcels in mind. Though the County's current policy appears to be one of leniency -- understanding the predicament of homeowners in these waterfront neighborhoods and granting variances in nearly every case -- this is not an efficient use of County time and resources, and it limits the attractiveness of these areas for future investment.

Finally, many of the county's older waterfront subdivisions contain homes located in flood prone locations, with a number of homes located directly in floodplain or floodway areas. Additionally, there are a number of platted, un-built lots located within these flood-prone areas. Meetings with county staff indicate that there is likely some desire from these residents to have the county help them relocate out of these areas. There should be a strategy for dealing with homes located in these flood-prone areas, and for ensuring that future development within these neighborhoods does not continue within the floodplain or floodway.

TOWARD A PREFERRED ZONING APPROACH

Many of the small, camp and cottage-style homes in these neighborhoods are being or have been transformed by additions and alterations, or replaced entirely with new, much larger suburban-style homes. In addition to the strains that these larger homes can place on the existing infrastructure and wastewater capacity of their small lots, these changes in scale, massing, architectural style and materials are altering the look and feel of these areas within the county. These changes also have the potential for environmental and visual impacts, as trees are removed, and the amount of impervious surface near the water increases.

To address the challenges currently faced by homeowners in the waterfront neighborhoods of McHenry County, a successful zoning approach must reflect the existing conditions within these

waterfront neighborhoods with regard to lot size and development patterns. This acknowledgement should include adjustments addressing front yard orientation, wherein many of the homes are oriented such that the waterfront could be considered “front” and any road abutment considered “back.” A successful approach should acknowledge these realities.

A successful approach also must allow homeowners within these neighborhoods to perform maintenance and improve their homes without undergoing the expensive and arduous process of obtaining a variance. Further, a successful approach must not only accommodate existing lots, but should encourage the creation of conforming lots over time. Lastly, this approach must recognize the challenges inherent in these small lots as they pertain to water and wastewater service, but must leave administration and development of solutions to the Department of Health.

It is an important caveat that a new zoning approach cannot resolve any issues that homeowners may be experiencing related to floodway and floodplain regulations. In all cases, these regulations supersede the zoning on a particular parcel, and must be followed.

Case Study Analysis:

In order to explore potential zoning approaches in a more in-depth fashion, Camiros conducted detailed case studies of three representative waterfront neighborhoods in McHenry County. These detailed case studies allowed us to gain greater insight into the realities of the current development pattern in these waterfront neighborhoods. A number of factors were analyzed, including lot size, lot width and depth, building footprint, and average setbacks. The case study areas that were analyzed included: 1) the East Lake Shore Drive / Beach Drive area near Wonder Lake, 2) the Croyden Street Area, and 3) the area east of Cary on the north side of the river. Over three-hundred parcels were studied, yielding a detailed level of information on which to found a new approach to the zoning within these waterfront areas (see Figure 1). The findings from these case studies are provided in Table 1.

Figure 1: Case Study Areas

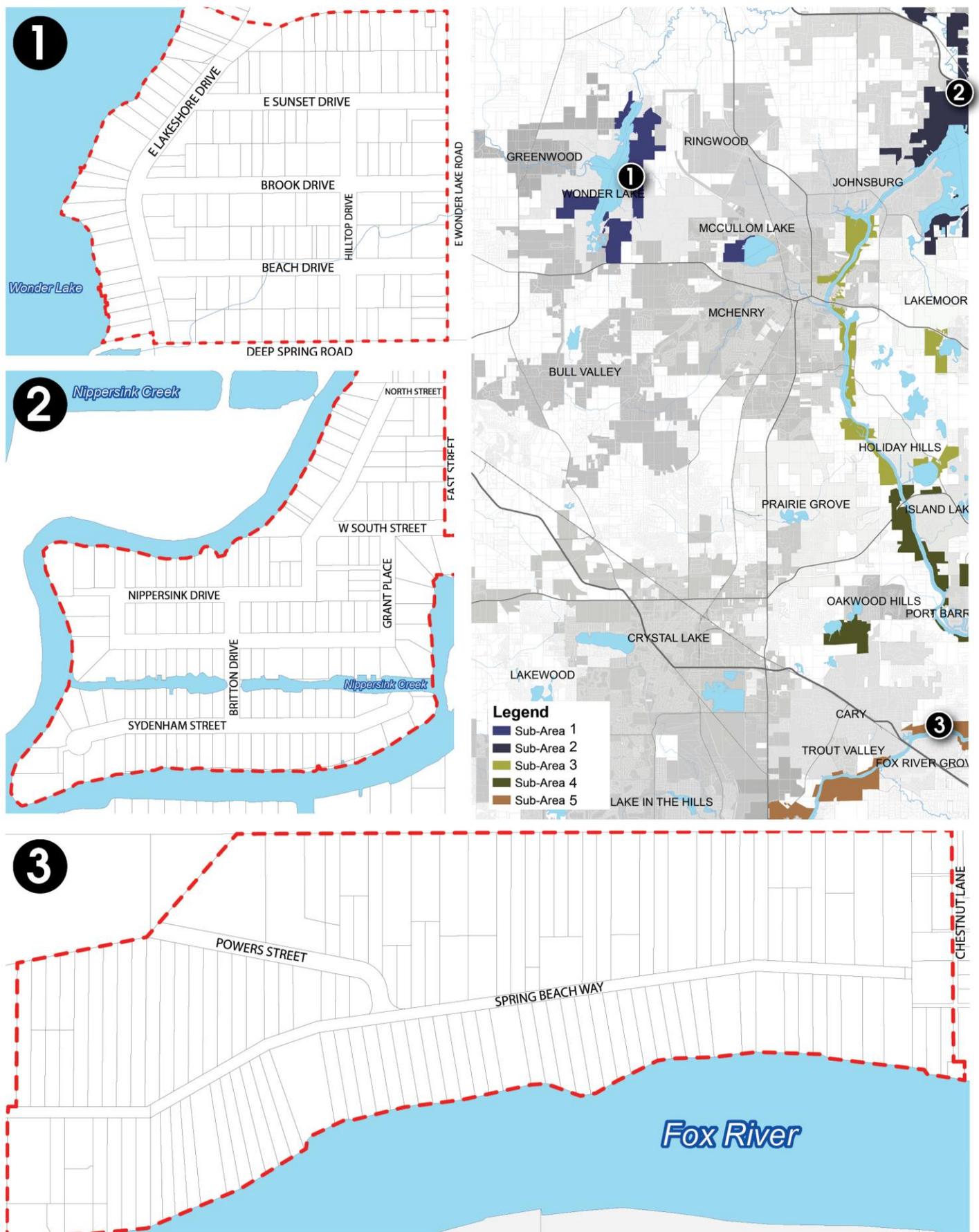


Table 1: Findings of Case Study Analysis of 300+ Developed Lots

	Percent All Conforming	Required	Percent Conforming	Median	80% conforming
Lot Area	1%	21,780sf	5%	9,827sf	5,000sf
Lot Width		100ft	20%	60ft	40ft
Front Yard		30ft	68%	43ft	20ft
Side Yard		10ft	24%	6ft	0ft
Combined Side Yard		20ft	44%	17ft	6ft
Rear Yard		10ft	98%	50ft	NA
Building Coverage		30%	96%	15%	NA
Impervious Surface (assumes 1,000sf plus bldg.)		50%	95%	40%	NA

As can be seen in Table 1, one percent of the lots studied are currently conforming under McHenry County’s base zoning standards. The “80% conforming” column represents the threshold at which 80% of the lots within the case study areas would be considered conforming. For instance, if lot width were a minimum of 40ft, the number of conforming lots would increase from 20 percent to 80 percent. Interestingly, rear yard, building coverage, and impervious surface requirements do not seem to contribute to the overall level of non-conformity within these neighborhoods. Table 2 illustrates the result of a similar analysis of vacant, substandard lots.

Table 2: Findings of Case Study Analysis of Vacant Developed Lot

	Percent all Conforming	Required	Percent Conforming	Median	80% conforming
Lot Area	2%	21,780sf	2%	6,039sf	4,300sf
Lot Width		100ft	9%	50ft	40ft

Zoning Approaches

Based upon the data gathered from the more than three-hundred case study lots, a number of approaches were formulated for a preferred zoning approach to McHenry County's waterfront neighborhoods:

Allow "Flexible" Provisions within Current Zoning District

This first approach would add a provision to the current base zone that would allow maintenance and improvement of existing structures without a variance if there was no increase in lot coverage. In essence, this allows necessary improvements to be made to maintain the status quo in terms of structure location and coverage on the site. This approach confirms the approach currently being taken, but removes the variance step.

New Zoning District Scaled to Existing Lots:

Another strategy is to create a new zoning district which would make developed lots within these areas conforming by incorporating new zoning standards for lot area, width, yards, etc geared to what exists today. This district could resolve many current non-conforming conditions within these neighborhoods and would greatly reduce the burden on both homeowners and the County, allowing homeowners the freedom to maintain and upgrade their homes appropriately, and freeing the County from a cycle of reviewing and granting variances for development on these lots. However, it would also allow continuation of this pattern of development on all remaining vacant, undersized lots in the new zone. Thus, while it resolves the current non-conformance issues, it also legalizes these conditions for application on vacant lots within the neighborhood. Further, it fails to encourage future development to take a form different than the existing, currently substandard lot pattern.

"Legacy" Zoning District:

Under this approach, the current minimum lot area and minimum yard requirements of the base zoning district might be maintained, but an exception provided to "deem conforming" all developed, substandard lots constructed before an established date. This would have the virtue of making existing non-conforming developed lots and structures conforming, but requiring that new additions or developments of these lots meet base zoning standards. A conditional use process could then be applied to evaluate requests for existing structure additions, redevelopment of existing lots or the development of substandard platted lots. As a result, maintenance or enlargement of existing non-conforming residences which are currently substandard due to being located on a too small lot, or due to non-conforming yards, would be allowed to be improved without having to go

through a variance process. This would give surety to present homeowners and to those persons who might be interested in purchasing such residences.

Legacy Waterfront Neighborhood Overlay District:

This approach incorporates the legacy concept with an additional twist. The legacy concept suggests that any new lot must either meet current base zoning standards or, if substandard as to area be allowed to develop, but with yards as established by the base zoning district. This is a “blunt instrument” approach. Clearly some lots may be so small that no house would fit if the current yards are required to be applied. An alternative is to introduce a set of “performance criteria” that allows for variable setbacks if such criteria were met. These criteria might include:

- Setback distances and yards for presently substandard lots, scaled to the size of the lots and their frontages.
- Impervious surface maximums as a percentage of lot size. This is more flexible than a lot coverage standard in terms of allowing development to happen more creatively to satisfy the regulation. For instance, green roofs, plantings, and pervious paving surfaces can be used to allow more lot coverage, while still maintaining a higher environmental standard.
- Stormwater regulations based upon the tight site configurations, runoff onto adjacent properties and into the lake, proximity to waterways, etc. Enforcing area specific stormwater standards could allow the County a tool to help mitigate negative impacts on these parcels.

PREFERRED ZONING APPROACH

The above zoning approaches were presented at two community meetings held for the purpose of informing local area residents as well as County representatives. Given the options, the “Legacy Waterfront Neighborhood Overlay District” appeared to be the preferred approach to a new district for McHenry County’s waterfront neighborhoods. Characteristics of this district include:

- All existing, built upon lots developed to date would be “deemed conforming,” thereby allowing upkeep and maintenance of existing structures without need for a variance.
- Improvement of existing developed lots is allowed “by right” based upon conformance to new “minimum conditions” in scale with the lot sizes.
- Improvements on developed lots that fail to meet the new “minimum conditions” would still require a variance.

- Vacant lots that don't meet base zoning standards would be allowed to develop subject to new minimum conditions.

Establishing Area Based Minimum Conditions:

A new Legacy Waterfront Neighborhood Overlay District must acknowledge the unique conditions within each neighborhood if it is to reinforce existing community character as well as relieve homeowners currently burdened with non-conformance. To this end, the range of lot size and development characteristics found within all the areas designated for analysis were evaluated, and a series of subdistricts established that each contained lots of relatively similar size. Examination of the approximately 16,000 lots located in subdivisions and developments that are encompassed by the waterfront areas showed that the subdistricts tend to fall into four categories:

- Areas with lots 10,000 square feet and over
- Areas with lots 7,000 square feet and over
- Areas with lots 5,000 square feet and over
- Areas with lots smaller than 5,000 square feet.

These subdistricts are shown in Figures 2 through 6. Lots were sampled within each of these subdistricts to determine that combination of minimum lot width, and minimum yard requirements that would achieve approximately 80 percent conformance. The process used to establish subdistricts and the sampling process conducted within each utilized the GIS tax parcel maps provided by the County. It was noted during the analysis that certain areas evidenced developed lots that consisted of multiple, unconsolidated tax parcels functioning as a single property. This effectively results in lots, as used, which are larger than the information provided by the GIS system for all cases. In many cases, if these multiple lot properties were to be consolidated, they would result in lots larger than the appropriate minimum lot sizes identified in Table 3.

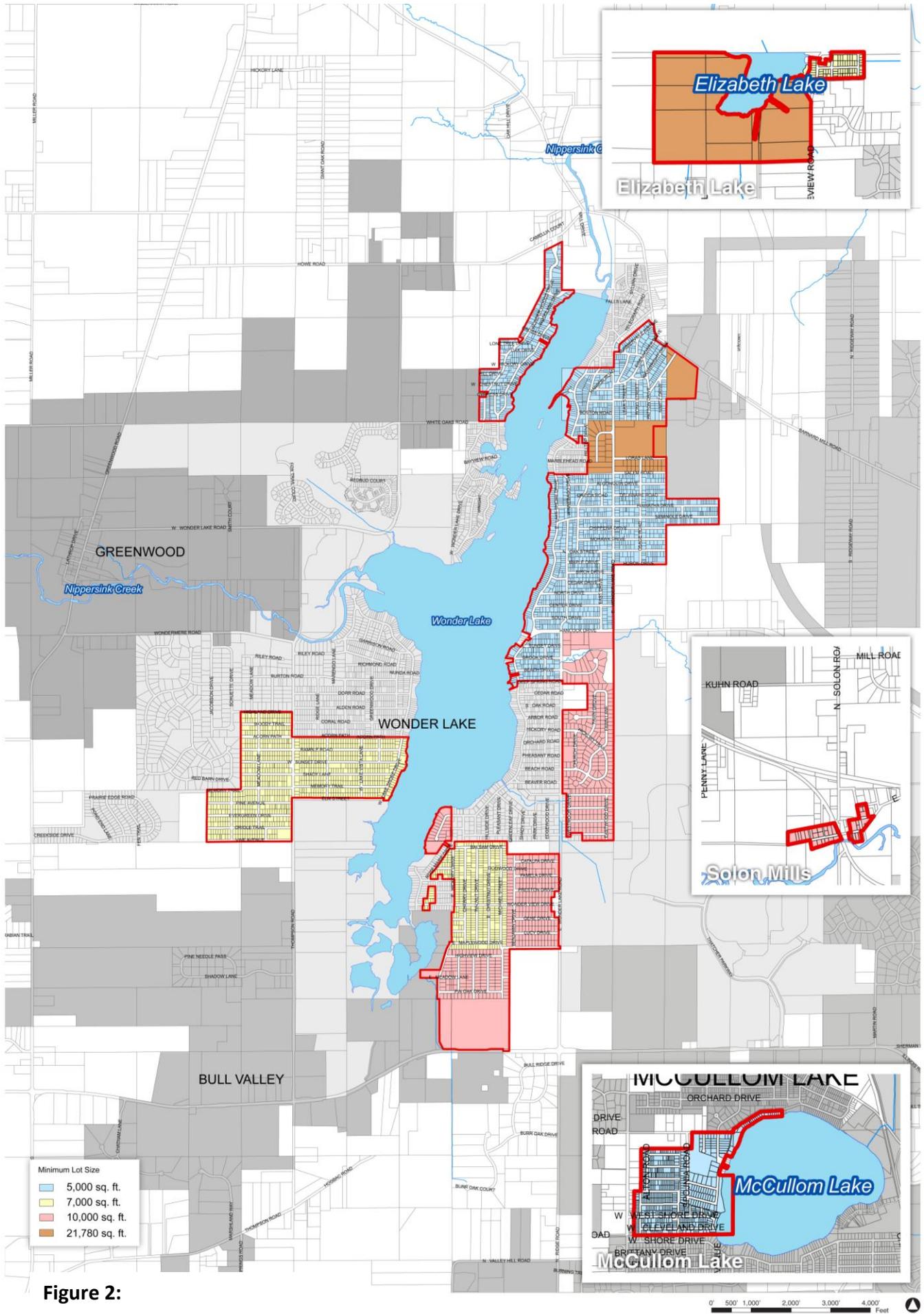


Figure 2:

— **Sub-Area #1: Proposed Subdistricts** —

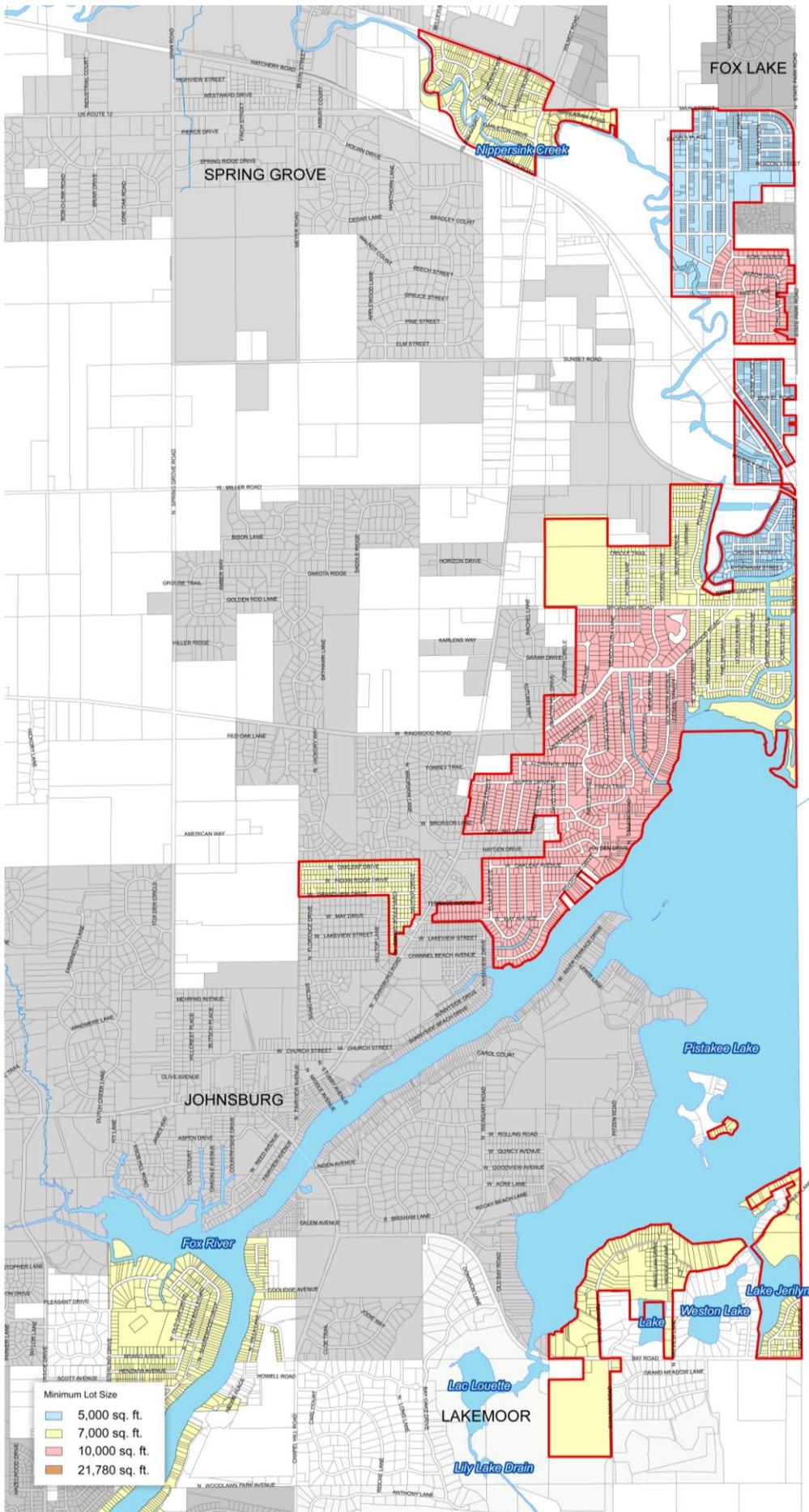


Figure 3:

Sub-Area #2: Proposed Subdistricts



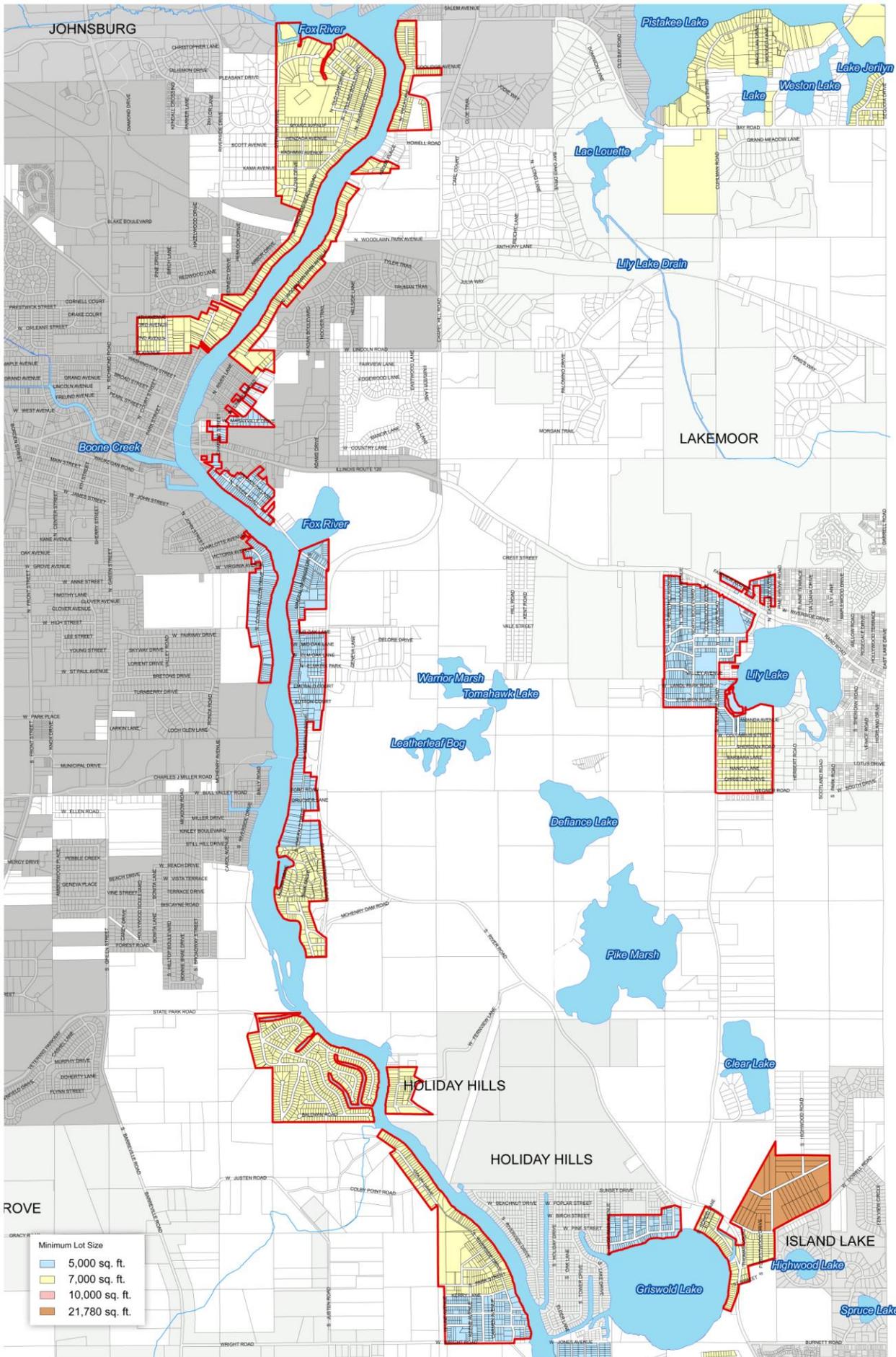


Figure 4:

— Sub-Area #3: Proposed Subdistricts —

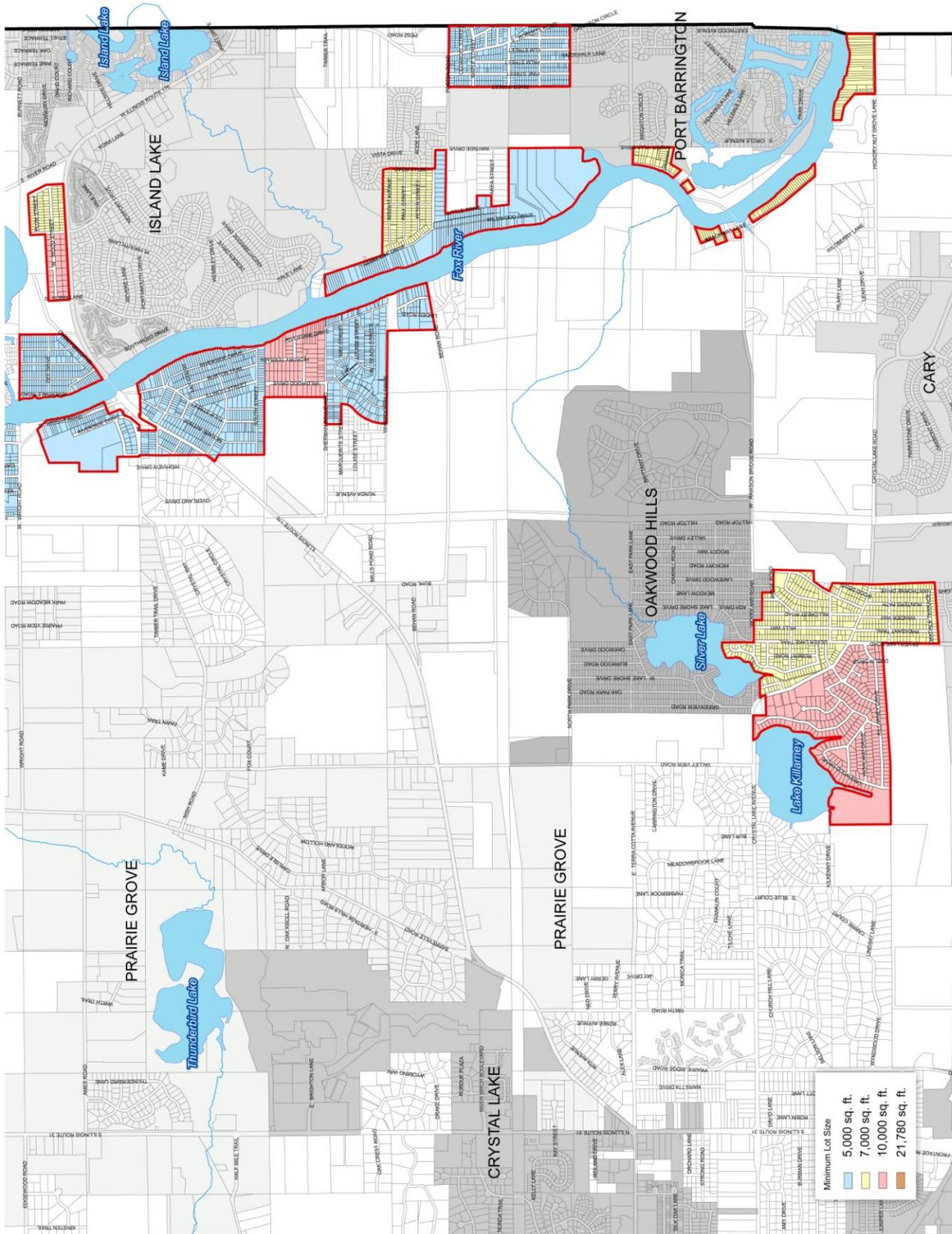


Figure 5:

Sub-Area #4: Proposed Subdistricts

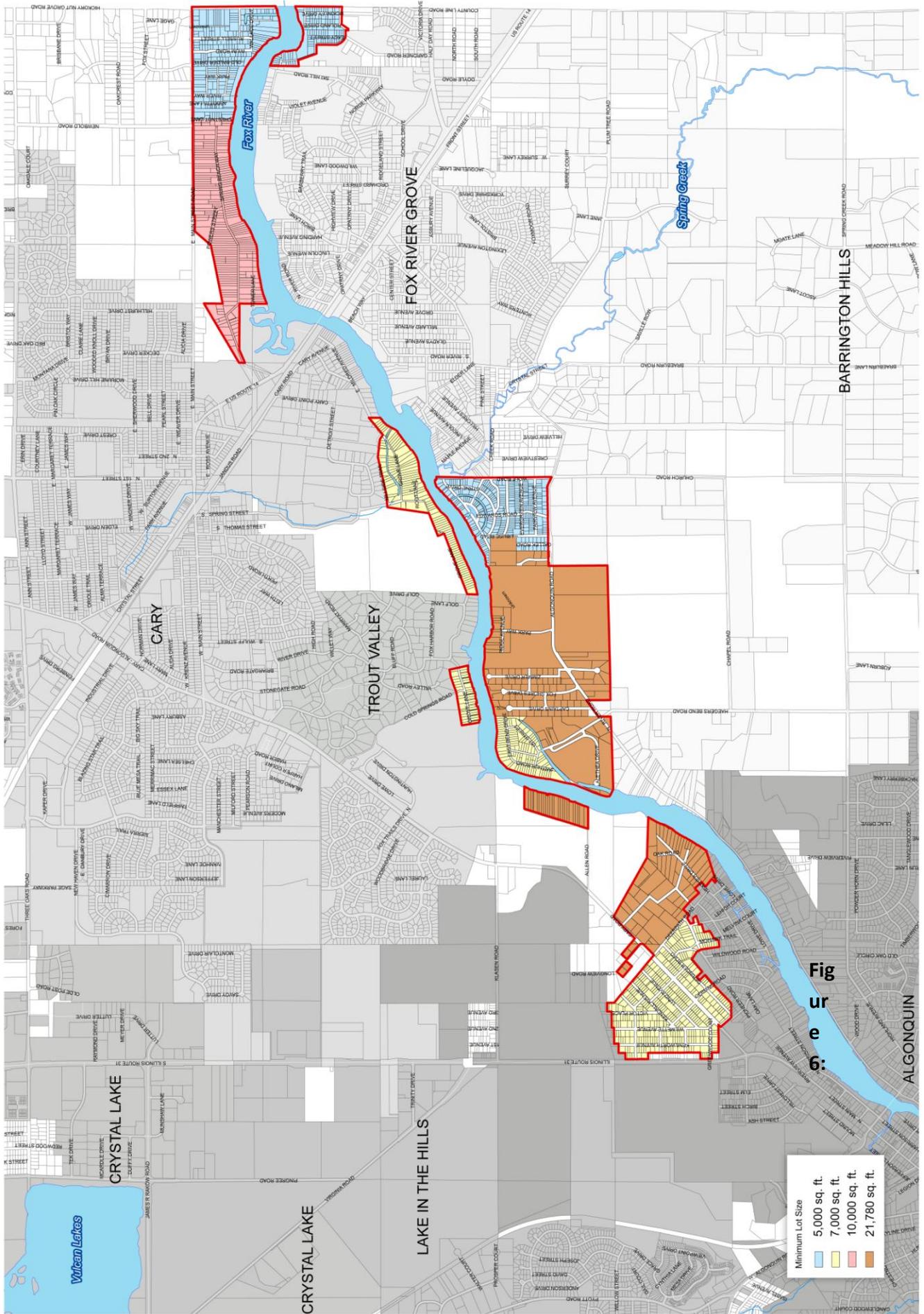


Figure 6:

Minimum Lot Size
5,000 sq. ft.
7,000 sq. ft.
10,000 sq. ft.
21,780 sq. ft.

Table 3: Common Lot Size Subdistrict Bulk Standards at 80 Percent Conformance¹

Min. Lot Area ²	Min. Lot Width	Min Side Yard	Min. Combined Side Yard	Min. Space Btwn Structures ³	Min. Front Yard
5000 sq ft	40'	5'	10'	10'	15'
7000 sq ft	50'	5'	15'	10'	15'
10000 sq ft	50'	5'	15'	10'	30'

¹ Based upon random sample of lots within each subdistrict category.

² Lots less than 5,000sf in area would continue to be non-conforming

³ Establishes minimum space between structures as measured across side lot lines, and includes accessory as well as principal structures.

Creating the Proposed District

Using the findings reported above, a set of “subdistricts” have been established to provide alternative bulk standards to be implemented through the Legacy Waterfront Neighborhood Overlay District. Application of these standards would reduce the need to grant variances to properties in these subdistricts to enable their owners to undertake required maintenance and upkeep of their homes.

Applying the notion of the Legacy Waterfront Neighborhood Overlay District discussed earlier, this approach could work as follows:

- An overlay zone containing a series of subdistricts, each addressing specific sets of bulk conditions would be established, each containing conditions which if met, would allow the lot and building to be considered conforming for the reason of allowing homeowners to maintain property and, if possible enlarge or replace their current structures with new structures that meet the subdistrict standards.
- The standards developed for each subdistrict would reflect existing development conditions found in at least 80 percent of the lots existing in terms of lot area, lot width, and yard requirements.
- Specific provisions would be established to reflect the development conditions found in lots which front the actual waterfront. In these areas, homeowners often have their garages along the street in front of their homes. These garages are often closer to the street than in adjacent non waterfront homes in order to maximize the open space between their homes and the water.
- Lots that are located within the floodplain or floodway will be required to comply with all relevant regulations.

DRAFT ORDINANCE

The attached draft Legacy Waterfront Neighborhood Overlay District ordinance represents a response to these criteria. It would be located in Article 13 of the UDO.

13.5 LEGACY WATERFRONT NEIGHBORHOOD OVERLAY DISTRICT

A. Purpose

The LNW Legacy Neighborhood Waterfront Overlay District is intended to accommodate lots and parcels which are less than one-half (0.5) acres created before the effective date of this Ordinance, and are the result of historical patterns of waterfront-oriented development initially designed to accommodate seasonal vacation housing, which has since become year round.

B. Overlay District Mapping

Lots identified by the maps shown in Figures 2 through 6: Legacy Neighborhood Waterfront Lots Subdistricts, within the report entitled "A Zoning Approach for McHenry County's Unincorporated Waterfront Neighborhoods," and adopted by the McHenry County Board on _____, are subject to the requirements of this overlay. Lots and parcels that meet the requirements of the base zoning district are not eligible for the flexibilities allowed by this overlay, and may not be further subdivided or split unless the resultant lots or parcels meet all requirements of the base district.

C. Use Regulations

The uses allowed in the base zoning district apply to all lots within the LNW Overlay District.

D. Permitted Development

A lot or parcel within the LNW Overlay District is subject to the following requirements and conditions depending upon the LNW Overlay Sub-District in which it is located. Special bulk regulations are provided for areas that have been historically developed prior to the adoption of subdivision or zoning regulations by the County. These lots vary in size, so special regulations have been established to facilitate the long-term viability and maintenance of the structures within such lots or parcels and the development of vacant lots or parcels that cannot be enlarged to meet the established standards of the base districts.

1. Structures on LNW Overlay District Lots Deemed Conforming

All lots located within the LNW Overlay District established prior to the effective date of this Ordinance and containing structures built before the effective date of this Ordinance are deemed conforming. This allows for:

- a. Replacement, rehabilitation, or additions to existing structures within the LNW Overlay District when the proposed development does not exceed the dimensions established in Table 13-1: LNW Overlay District Bulk and Setback Regulations.
- b. Replacement of existing structures that do not meet the dimensions of Table 13-1: LNW Overlay District Bulk and Setback Regulations so long as the new structure does not exceed the building footprint of or decrease the setbacks established by the previous structure.

2. Vacant Lots or Parcels

Any use proposed for a vacant lot or parcel within the LNW Overlay District, where the lot or parcel does not conform to the lot area and lot width standards of the base district, must meet the following standards:

- a. The lot or parcel is the result of a subdivision occurring prior to July 1, 1959.

- b. The owner of the lot or parcel, or any related parties, do not control adjacent lots, which, if added to the nonconforming lot, will reduce the nonconformity of lot width or lot area.
- c. A good faith effort was made to increase the size of the lot to reduce the nonconformity at the time of application, by efforts to purchase, at fair market value, any existing adjacent vacant lots. Evidence must be provided in writing to the Zoning Enforcement Officer.
- d. That the proposed development upon such lot will meet the standards of Table 13-1.
- e. That the proposed development will meet McHenry County's Public Health Ordinance and McHenry County's Stormwater Management Ordinance.

E. Bulk and Setback Regulations

1. Regulations

- a. Lots that are 0.5 acres or greater in area and at least 100 feet in width, whether or not they meet the standards of the base district, shall develop according to R-1 district bulk standards.
- b. To accommodate lots or parcels that front on the lakes, rivers and canals, known as waterfront lots, setbacks are established as waterfront setbacks and street setbacks. Structures on such lots or parcels may front on either setback. Structures that do not front on the waterfront must front on the street. Table 13-1: LNW Overlay District Bulk and Setback Regulations contains the regulations for the LNW Overlay District:

TABLE 13-1: LNW OVERLAY DISTRICT BULK & SETBACK REGULATIONS			
	Sub-Districts		
	LNW-5	LNW-7	LNW-10
BULK REGULATIONS			
Minimum Lot Area	5,000sf	7,000sf	10,000sf
Minimum Lot Frontage	40'	50'	50'
Maximum Building Height	35'	35'	35'
Maximum Building Coverage ¹	30%	30%	30%
Maximum Impervious Surface ²	50%	50%	50%
SETBACK REGULATIONS			
Minimum Street Setback	See Paragraph 2 below	See Paragraph 2 below	See Paragraph 2 below
Minimum Waterfront Setback	See Paragraph 3 below	See Paragraph 3 below	See Paragraph 3 below
Minimum Side Setback	5'	5'	5'
Minimum Combined Side Setback	Not Applicable	15''	15'
Minimum Rear Setback	10'	10'	10'
Minimum Space Between Buildings At Side Lot Line ³	10'	10'	10'
Flag Lot/Parcel or Land-Locked Lot/Parcel Perimeter Setback ⁴	10'	10'	10'

¹ Calculated by excluding all lot area in floodplain or floodway.

² Calculated by excluding all lot area in floodplain or floodway.

³ As measured from building wall.

⁴ For a flag or a land-locked lot or parcel, the setback is measured from the main portion of a site, excluding the pole area or any access easement.

2. Street Setback Requirements

a. Existing Structures

For existing structures, the building line of the existing structure along that street establishes the street setback dimension. This may be modified if either of the following conditions are met:

- i. A platted street setback exists which establishes a smaller street setback than that of the existing structure.
- ii. The average of the street setback of existing structures on the same side of the blockface when sixty percent (60%) of that blockface is developed establishes a smaller street setback than that of the existing structure. For blockfaces that extend more than six-hundred (600) feet, only sixty percent (60%) of the lots located within three-hundred (300) feet either side of the lot shall be considered.

b. Vacant Lots

For vacant lots, the street setback dimension is established by the following methods, in the order described:

- i. The platted street setback.
- ii. The average of the street setback of existing structures on the same side of the blockface when sixty percent (60%) of that blockface is developed. For blockfaces that extend more than six-hundred (600) feet, only sixty percent (60%) of the lots located within three-hundred (300) feet either side of the lot shall be considered.
- iii. Thirty (30) feet.

3. Waterfront Setback

a. Existing Structures

For existing structures, the building line of the existing structure along the waterfront establishes the waterfront setback dimension. This may be modified if a platted setback exists which establishes a smaller waterfront setback than that of the existing structure.

b. Vacant Lots

For vacant lots, the waterfront setback dimension is established by the following methods, in the order described:

- i. The platted waterfront setback.
- ii. Thirty (30) feet from the mean high waterline.

3. Accessory Structures and Uses for Waterfront Lots

- a. In the case of waterfront lots, the waterfront setback is treated as the rear setback for the purposes of accessory use and structure regulations, found in Article 15.
- b. For waterfront lots, an existing detached garage may be repaired and rebuilt in its existing location, until the lot is redeveloped. Where new detached garages are constructed in conjunction with new construction of a principal building, or where no

garage previously existed, the setback for the detached garage shall be that of the average setback of existing detached garages on the same side of the blockface when sixty percent (60%) of that blockface is developed. For blockfaces that extend more than six-hundred (600) feet, only sixty percent (60%) of the lots located within three-hundred (300) feet either side of the lot shall be considered.